

REFERENCE TITLE: **prisoners; medical parole**

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

# **HB 2678**

Introduced by  
Representatives Lopes, Sinema: Ableser, Brown, Prezelski

AN ACT

AMENDING TITLE 31, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES; BY ADDING SECTION 31-419; RELATING TO PRISONERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 31, chapter 3, article 2, Arizona Revised Statutes, is amended by adding section 31-419, to read:

31-419. Medical parole: illness: terminal illness: applicability

A. EXCEPT FOR PRISONERS WHO ARE SENTENCED TO DEATH OR TO NATURAL LIFE, THE BOARD OF EXECUTIVE CLEMENCY MAY RELEASE A PRISONER ON MEDICAL PAROLE IF THE PRISONER HAS BEEN EXAMINED BY A PHYSICIAN LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17 AND HAS RECEIVED A WRITTEN DIAGNOSIS THAT INCLUDES ALL OF THE FOLLOWING:

1. A DETERMINATION THAT THE PRISONER SUFFERS FROM AN INCAPACITATING PHYSICAL CONDITION, DISEASE OR SYNDROME.

2. A DESCRIPTION OF THE PHYSICAL CONDITION, DISEASE OR SYNDROME AND A DETAILED DESCRIPTION OF THE PRISONER'S PHYSICAL INCAPACITY.

3. A PROGNOSIS ADDRESSING THE LIKELIHOOD OF THE PRISONER'S RECOVERY FROM THE PHYSICAL CONDITION, DISEASE OR SYNDROME AND THE EXTENT OF ANY POTENTIAL RECOVERY.

B. THE DIRECTOR OF THE STATE DEPARTMENT OF CORRECTIONS SHALL REVIEW AND ACCEPT THE WRITTEN DIAGNOSIS BEFORE THE BOARD GRANTS A MEDICAL PAROLE. THE BOARD MAY NOT GRANT A MEDICAL PAROLE UNLESS THE INCAPACITATING PHYSICAL CONDITION, DISEASE OR SYNDROME RENDERS THE PRISONER HIGHLY UNLIKELY TO PRESENT A CLEAR AND PRESENT DANGER TO PUBLIC SAFETY.

C. THE BOARD MAY REQUIRE AS A CONDITION OF MEDICAL PAROLE THAT THE PRISONER AGREE TO PERIODIC EXAMINATIONS AND DIAGNOSES AT THE PRISONER'S EXPENSE. THE EXAMINING PHYSICIAN SHALL SUBMIT REPORTS OF EACH EXAMINATION AND DIAGNOSIS TO THE BOARD AND THE DEPARTMENT OF CORRECTIONS. IF THE BOARD OR THE STATE DEPARTMENT OF CORRECTIONS DETERMINES THAT THE PRISONER'S INCAPACITATING PHYSICAL CONDITION, DISEASE OR SYNDROME HAS IMPROVED TO THE EXTENT THAT THE PRISONER IS LIKELY TO POSE A POSSIBLE DANGER TO THE PUBLIC, THE BOARD MAY REVOKE MEDICAL PAROLE AND RETURN THE PRISONER TO THE CUSTODY OF THE DEPARTMENT.

D. THE BOARD SHALL NOT GRANT MEDICAL PAROLE SOONER THAN ONE YEAR BEFORE THE PRISONER'S PAROLE OR EARNED RELEASE CREDIT DATE UNLESS, BASED ON MEDICAL INFORMATION FURNISHED TO IT, THE BOARD DETERMINES THAT THE PHYSICAL CONDITION OF THE PRISONER IS SO SERIOUS THAT THE PRISONER WOULD NOT BE REASONABLY EXPECTED TO LIVE FOR MORE THAN ONE YEAR.

E. THE BOARD, THE STATE DEPARTMENT OF CORRECTIONS, A PRISONER OR A PRISONER'S PARENT, GRANDPARENT, CHILD OR SIBLING MAY REQUEST MEDICAL PAROLE BY SUBMITTING THE REQUEST IN WRITING TO THE DIRECTOR OF THE STATE DEPARTMENT OF CORRECTIONS.

F. A PRISONER IS ELIGIBLE FOR MEDICAL PAROLE ONLY IF BOTH OF THE FOLLOWING APPLY:

1. THE BOARD DETERMINES, BASED ON THE PRISONER'S MEDICAL CONDITION AND THE WRITTEN DIAGNOSIS, THAT THE PRISONER DOES NOT CONSTITUTE A THREAT TO PUBLIC SAFETY AND IS NOT LIKELY TO COMMIT AN OFFENSE WHILE ON MEDICAL PAROLE.

1       2. THE BOARD PREPARES A MEDICAL PAROLE PLAN THAT ENSURES APPROPRIATE  
2 SUPERVISION AND PLACEMENT OF THE PRISONER.

3       G. NOTWITHSTANDING ANY OTHER LAW, A PRISONER WHO HAS SERVED TEN  
4 CONSECUTIVE YEARS OR MORE IN PRISON SHALL NOT BE PAROLED PURSUANT TO THIS  
5 SECTION UNTIL THE BOARD FIRST RECEIVES A REPORT AS TO THE PRISONER'S MENTAL  
6 CONDITION AND ABILITY TO ADJUST TO LIFE OUTSIDE THE PRISON FROM A  
7 PSYCHIATRIST OR PSYCHOLOGIST LICENSED IN THIS STATE.

8       H. A GRANT OR DENIAL OF MEDICAL PAROLE DOES NOT AFFECT A PRISONER'S  
9 ELIGIBILITY FOR NONMEDICAL PAROLE OR COMMUNITY SUPERVISION.

10     I. THIS SECTION APPLIES TO ANY PRISONER WHO APPLIES FOR MEDICAL PAROLE  
11 ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, REGARDLESS OF THE DATE ON  
12 WHICH THE PRISONER WAS SENTENCED.